

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7622**

**BILL NUMBER:** SB 322

**NOTE PREPARED:** Apr 5, 2005

**BILL AMENDED:** Mar 28, 2005

**SUBJECT:** Local Spending on Criminal Defense.

**FIRST AUTHOR:** Sen. Bray

**FIRST SPONSOR:** Rep. Foley

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** Local

**Summary of Legislation:** (Amended) This bill provides that a county, municipality, township, or municipal corporation may not pay the legal expenses of an employee or officer to defend against a criminal action, certain civil actions, or a proceeding in which the employee or officer is charged with an infraction. It requires reimbursement of the reasonable expenses of the employee or officer (as determined by the local unit) if the employee or officer is found to have no criminal or civil liability.

The bill also provides that in the year in which a newly elected county officer takes office, the county fiscal body may change the compensation for holding the county office if: (1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and (2) the county fiscal body approves the change.

**Effective Date:** (Amended) January 1, 2005 (Retroactive); Upon Passage.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) For local units of government, any costs incurred will depend on whether legal expenses are already being paid by a unit. If so, this bill could limit the expenses incurred by a local unit to those paid only when the defendant's charges are dropped or if the defendant wins the case. However, the bill would require a local unit to reimburse legal defense expenses that otherwise would not have been reimbursed for that unit's employee or officer.

*Background* -- Current law is silent on whether local units of government are required to pay for the criminal defense costs of local employees and officials. During CY 2004, the Office of the Attorney General opened 48 cases against local units of government where the State Board of Accounts identified financial irregularities.

The bill also allows the compensation of a newly elected county officer to be changed if it is requested by the officer and then approved by the county fiscal body. The fiscal impact of this provision is dependent on if the change is an increase or decrease in compensation.

**Explanation of Local Revenues:**

**State Agencies Affected:**

**Local Agencies Affected:** Counties, municipalities, townships, or municipal corporations.

**Information Sources:** Office of the Attorney General.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852; Valerie Ruda, (317) 232-9867.